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News

Battle brewing over beachfront property sale

By Laura Tate/Associate Editor

Malibu homeowners are preparing for a battle with a local developer over the possible sale of beachfront property to the state for public use.

As an approval by the California Coastal Conservancy was given for up to \$10 million to purchase property on Lechuza Beach Thursday, a group of homeowners filed a lawsuit to stop the possible sale of the land.

At stake is 21 beach front lots and three inland parcels that front the property of the Malibu Encinal Homeowners Association (MEHOA) homes on Sea Level Drive on Lechuza Point.

Lechuza Villas West, L.P., of which developer Norm Haynie has an interest, purchased a majority of the land for approximately \$2 million in 1990. He has since been involved in litigation with the California Coastal Commission for the past nine years, over the denial of permits to build on the beach lots.

The Coastal Commission felt it inappropriate for private development. The Coastal Conservancy, at a meeting in Ventura, which members of MEHOA, as well as members representing several environmental groups attended, authorized a disbursement of up to \$10 million to the Mountains Recreation and Conservation Authority (MRCA) to buy the beach property. The total estimated cost of the purchase is \$12.5 million. The conservancy would give \$8 million and an additional \$2 million in a challenge grant, with \$2 million in private donations, and a possible \$500,000 from the State

Lands Commission also going toward the projected cost.

The concerns of MEHOA deal with how the beach would be managed and any possible construction, including restrooms and parking lots.

"They're indicating restroom facilities [in the plans]," said Bert Boeckmann, MEHOA board member. "Where do they put them?"

In a site description of the property by the conservancy, the beach area is said to be 130-175 feet wide during the summer, with a cliff on the inland side that rises abruptly approximately 50 vertical feet.

The beach has been accessible to the public for the past nine years through timed locked gates at the west and east ends of Sea Level Drive off Broad Beach Road, open from sunrise to sunset. Another gate exists in the center of the tract off Broad Beach Road, but Tony Giordano, president of MEHOA, said it is not open to the public.

Having the accessway open to the public is another concern of the homeowners, as it passes next to one of the large homes found on the tract.

Boeckmann said when he moved to the tract nearly 30 years ago, several homes were burglarized, which is why gates were installed on both ends of Sea Level Drive.

"There has to be some protection for homeowners," said Boeckmann.

Boeckmann, Giordano and Terence Sternberg, the lawyer representing MEHOA in the lawsuit against the owners of the lots in question, say they have repeatedly asked to be involved in talks about the possible sale. They say that Steve Horn, deputy executive officer of the Coastal Conservancy, met with them in late August, but they were not provided any concrete information about the possible purchase and their concerns about safety and the values of their community were not addressed.

Marcia Hanscom, co-chair of the Sierra Club, one of the groups supporting the purchase, said many

of the concerns that environmental groups have about protecting the resources of the beach are in alignment with the majority of the homeowners.

"Some want to keep it a private beach," said Hanscom of the effort to block the purchase.

"The attitude in Malibu is 'we are going to be overrun by others,' " she said. "We are really lucky to live here, we need to share the treasures of the coastline."

"Nothing has really changed," said Haynie. "Wealthy homeowners are trying to prevent access to the beach, even though they claim they provided access for nine years."

"These people will say or do whatever seems to benefit their cause," he continued. "Which is to prevent public access on a permanent basis."

Another contention by the homeowners is that the property is overvalued.

"The two big concerns are, is the price being asked appropriate or too much, and whether or not buying all the property rights is sufficient to get the public down there," said Sternberg.

In fact, State Controller Kathleen Connell recently released a statement supporting the purchase, but is concerned about the fair market value. Apparently, Connell commissioned an independent appraisal which showed the fair market value of the property was \$2.5 million rather than \$12.5 million.

"I am rather surprised that Kathleen Connell would raise an issue with respect to price without contacting the commission which she chairs, or the State Coastal Conservancy to discuss her concerns," said Haynie in response to the statement.

Hanscom said in response to arguments about the value: "Are all the homeowners willing to devalue their lots?"

"They [the state] don't overpay for a piece of property," said Hanscom. "They have to pay for something that's within fair market value. It is a rigorous appraisal procedure. It had to be done by a

state approved appraiser. Horn assured the board members that it had passed all those tests."

In regards to property rights, the homeowners contend they may have the right to control access to the beach through 1932 Covenants, Conditions and Restrictions for the tract.

"I really don't know what to think," said Haynie. "They say they want public access to the beach, but then they sue me with a lawsuit that says public use is inconsistent with CC&Rs."

The MRCA board will vote on Monday whether to take a position and approve taking interim ownership of the Lechuza Beach property.

Meanwhile, both MEHOA members and Haynie continue to battle over who has the right to do what with the property.

"When Haynie bought the property he was told it was worthless," said Boeckmann. "When he couldn't develop it, he came up with this idea as a person doing wonderful things. Somehow he's gone around that the truth is not the truth, that these properties have a value that they do not have."

Haynie vows to fight and retain his right to do what he wants with his property.

"I will cross complain and sue for the entire value of the beach," he said. "I will sue each one of the homeowners for that value. They're all members and they don't have to do this if they don't want to. They have to take responsibility for what their organization does."

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